

1 UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

2 -----x
3 UNITED STATES OF AMERICA,
4 Plaintiff,

04 CR 706(S-2)

5 versus United States Courthouse
6 225 Cadman Plaza East
7 Brooklyn, N.Y. 11201
8 DAMION HARDY, AARON GRANTON,
9 DEFENDANTS.
10 -----x

April 1, 2015
2:20 p.m.

11 TRANSCRIPT OF TRIAL
12 Before: HON. FREDERIC BLOCK,
13 DISTRICT COURT JUDGE

14 APPEARANCES

15 LORETTA LYNCH
16 United States Attorney - Eastern District of New York
17 271 Cadman Plaza East
18 Brooklyn, New York 11201
19 BY: MATTHEW AMATRUDA, ESQ.
20 SOUMYA DAYANANDA, ESQ.
21 RENA PAUL, ESQ.
22 Assistant United States Attorneys

23 ATTORNEY FOR DEFENDANT:

24 DAVID RUHNKE, ESQ.
25 JEAN BARRETT, ESQ.
For Hardy

ROBERT BEECHER, ESQ.
CARL HERMAN, ESQ.
For Granton

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5 Proceedings recorded by mechanical stenography, transcription
6 by CAT.

7
8 THE COURT: Are we ready to bring the jurors in?

9 MR. AMATRUDA: Judge, I just have one preliminary
10 matter.

11 Mr. Ruhnke has some slides he intends to play during
12 his opening statement. I don't have any objection to all but
13 one of them where in the last slide he has written "not sure
14 equals not guilty." And he has a series of questions that he
15 proposes asking that the jurors to ask themselves.

16 I'm not objecting to that. I understand that
17 opening statements sometimes bleed into argument. This seems
18 a little over the line just because it's going to be the first
19 definition of reasonable doubt the jury is going to see.

20 THE COURT: Listen to me. We're going to be here
21 for like five years together, right, and I think at the end of
22 the time, it's all going to wash out that nobody feels they
23 have been prejudiced one way or the other.

24 So I make comments to the jurors. Don't worry about
25 it. And if Mr. Ruhnke opens the door to anything, it will

1 give you the opportunity to say things too. And sometimes
2 people say things in opening that come back to haunt them at
3 the end of the line.

4 So each of you will have a little play in the joints
5 and I don't think you need to worry too much. I don't want to
6 see you get gray before you are my age.

7 MR. AMATRUDA: So it's coming in.

8 Again, I don't have an issue with 90 percent of it,
9 it's just putting legal definitions before the jury.

10 THE COURT: I'll probably make some comments to them
11 depending on what he says.

12 MR. RUHNKE: Thank you.

13 THE COURT: It's a privilege for me to preside over
14 the case with such outstanding lawyers on both sides and you
15 people have already shown your capacity to not give an inch
16 with respect to representing your client's best interests and
17 also cooperating where cooperation is indicated.

18 A lot of lawyers can't really draw that line
19 effectively but you people you very skilled. And as I
20 mentioned before, you are helping the Court. You were able to
21 identify some jurors who should not have been on the jury
22 because of your questioning and I hope you spread the word
23 that this is probably a good thing to do. I always tell me
24 fellow judges, they don't listen to me.

25 Let's see how it goes. I would like to have a level

1 playing field.

2 Ms. Dayananda is always worried.

3 MS. DAYANANDA: I'm never worried. I want to bring
4 one matter to the your attention.

5 THE COURT: Let's get the openings done.

6 MS. DAYANANDA: Sure.

7 THE COURT: Alternate number 1 wanted to leave at
8 4:00 to pick up a child. I'm inclined to let him do that.
9 It's only a one shot thing. It's only today.

10 So maybe we'll just end at 4:00 today. It may be
11 right after the openings. We might not reach the first
12 witness today.

13 We'll have ample time to talk about all of that.

14 MS. DAYANANDA: We have one witness.

15 THE COURT: So I think we can probably safely let
16 that person go home.

17 MS. DAYANANDA: Your Honor, we would really, really
18 like to put this witness on the stand.

19 THE COURT: I would be happy to do that but I want
20 to accommodate alternate juror number 1 at the same time.

21 MS. DAYANANDA: Shall we see how it goes after the
22 openings?

23 THE COURT: If she has to come back tomorrow, she
24 will have to come back.

25 MR. AMATRUDA: We may just need your assistance in

1 that in her compliance.

2 THE COURT: I'll be happy to talk to her.

3 (Jury in at 2:25 p.m.)

4 THE CLERK: You all may be seated.

5 THE COURT: All right, folks, I hope you had a nice
6 lunch.

7 Alternate number 1, is it you who has a child you
8 want to pick up at the airport?

9 ALTERNATE JUROR #1: Yes.

10 THE COURT: Tell me again, we work until 5:00 but
11 this is a one time thing.

12 As I mentioned before, I want to be flexible to
13 accommodate you. You tell me what the latest time is that you
14 have to leave the court today.

15 ALTERNATE JUROR #1: 5:00.

16 THE COURT: You can stay until five?

17 ALTERNATE JUROR #1: Yes.

18 THE COURT: I thought you said you have a child
19 coming in?

20 ALTERNATE JUROR #1: She has a flight coming in at
21 4:45. I'll probably take the train to Jamaica and then
22 take --

23 THE COURT: So you can stay until 4:30, 4:45?

24 ALTERNATE JUROR #1: Yes.

25 THE COURT: Let me know if we can accommodate you.

Opening by the Court

1 I'd like to talk to you folks before we start with
2 the lawyer.

3 Why I want to talk to you is to try to ease you into
4 the trial a little bit and give you some A, B, Cs about things
5 you may be curious about like when we start, when we end,
6 lunch breaks, things of that nature.

7 Did any of you tell any of your relatives or loved
8 ones about Brad Pitt last night?

9 Nobody.

10 Just curious.

11 So now serious, serious business. We use humor
12 intentionally sometimes to get people to relax a little bit
13 and to even pay more attention to what is going on in court.

14 I think that Shakespeare always wrote comedies and
15 tragedies. And in his great tragedies, he had comedy as well.
16 That was an example of it but we are really very serious about
17 the events about to unfold.

18 We have serious charges against two defendants and
19 you already knew a few things. Let me run through it again
20 very briefly.

21 The indictment, the fact they have been indicted
22 can't be considered as any evidence, just allegations. There
23 has to be a process by which people are brought into court,
24 and the mere fact that an indictment has been rendered, you
25 are not to consider that at all. It's no evidence.

Opening by the Court

1 What is evidence is only what is going to be
2 testified to under oath from witnesses who will be sitting in
3 that seat and exhibits or documents that will be introduced
4 during the course of the trial and that's it.

5 And I want to tell you how I view our respective
6 roles. We need each other. Collectively we are a team. One
7 without the other doesn't work.

8 Why?

9 Because you folks are in charge of what I like to
10 refer to as the fact department. I'm in charge of the law
11 department. We need both.

12 You are the factfinders. You have to determine from
13 all the testimony what the facts are that govern your
14 responsibilities in terms of your decision to see whether the
15 government has met its high standard of proof and I have to be
16 in charge of explaining the law to you and handling all legal
17 matters.

18 So presumably I'm trained to do that and you folks
19 are not. So when it comes to our separate responsibilities,
20 we have this separation of functions though both of us are
21 necessary as partners in the law and the facts and we have to
22 come together.

23 So at the end of the all of the testimony, I'm going
24 to come down there and I'm going to explain the legal
25 principles that apply, the general principles of law, a lot of

Opening by the Court

1 them you have heard, the specific elements of the crimes, and
2 there are a number of them here that you are going to have to
3 consider, and decide whether the government has met its burden
4 of proof with respect to each element of each crime.

5 I'll explain the law to you and then I'll explain to
6 you how you go about your deliberations. So that is the
7 responsibility of the person in charge of the law, the judge.

8 There are other occasions which you may see,
9 undoubtedly will see during the course of the trial where you
10 will see the law on display so to speak.

11 So witnesses are going to be asked questions. The
12 lawyer or the party that calls a witness and starts
13 questioning that witness, we call that direct examination.
14 That sounds like what it is, right?

15 Then when the lawyer who has called the witness
16 finishes direct examination, then the other lawyers have the
17 right to question the witness about whatever the witness
18 testified to. We call that cross-examination.

19 After that, it may well be that we have redirect,
20 recross until the witness' testimony has been sufficiently
21 explored and then we are on to our next witness.

22 During the course of the questioning, there may be a
23 question posed to a witness and the lawyer from the other side
24 gets up and says objection, your Honor.

25 Now, that is a clue to me that the lawyer is saying

Opening by the Court

1 that I don't think that that is a proper legal question to ask
2 the juror, I don't think the juror should be asked that
3 question.

4 I then have to make a legal ruling. I'll say
5 objection sustained or overruled. So that's another example
6 of the judge applying the law. And I am skilled and trained
7 in the Rules of Evidence and I hopefully will make the correct
8 decision as to whether the question is a proper question posed
9 to a witness or not.

10 If I say objection overruled, that means I made a
11 legal decision that the questions is a proper question and the
12 witness will go forward and answer the question.

13 If I say objection sustained, that is the opposite
14 ruling. That means that that is not a proper question. The
15 witness should not answer it.

16 Sometimes things happen quickly and there may be an
17 answer before I make a ruling and I'll have to tell you to
18 ignore it the best you can but you'll see how that plays out.

19 So that is another example of the judge performing
20 his role in charge of the law department. And then I have a
21 administrative responsibility. Obviously you have seen some
22 of them on display, when to break to lunch, when to use our
23 facility breaks during the course of the day, normal common
24 sense things, when we should all come to court and how long we
25 are here, should we have a day off once in a while. I'll stop

Opening by the Court

1 and ask you folks this question right now.

2 Friday is Good Friday. So I don't celebrate Good
3 Friday because I'm Jewish and I celebrate Passover, but if any
4 of you folks celebrate Good Friday and that would be a
5 religious holiday which you would want to celebrate, certainly
6 I want to know about that because then we may give you off
7 Friday to do that.

8 Let me see a show of hands right now so we know
9 whether we are going to sit on Friday.

10 Any good Friday celebrants in the crowd here?

11 So I take it four of you will probably be attending
12 church that day during the course of the day. Am I reading
13 you correctly? So at the end of the day, I'll talk to the
14 lawyers. My tendency right now will be to say okay, we won't
15 sit on Good Friday unless we sit for half a day but I'll let
16 you know.

17 The chances are we are not going to sit for more
18 than half a day. That is possibly may be what we may do if
19 that will work out for everybody.

20 You want the whole day?

21 So then I'll make that first decision as the
22 administrator of the trial.

23 You are off on Friday.

24 Okay?

25 Then we'll make it up the following week.

Opening by the Court

1 Fair enough?

2 So that gives you an example of things I have to do.

3 Now, I'm aided by my wonderful Clerk of the Court, Mr.

4 Innelli, and you have already have had an opportunity to see

5 the things that he does. He makes sure that you get in and

6 out of the courtroom. He makes sure that everything is taken

7 care of terms of having the court run in an orderly fashion.

8 So as far as your job is concerned as the people in

9 charge of the fact department, you are going to take the law

10 that I explain to you and you are going to decide the facts

11 and put the facts to the law.

12 I have nothing to do with that. So at the end of

13 the trial when you go into the jury deliberating room to

14 decide the case, I'm not going to be with you.

15 And at the same time, when we have legal matters

16 that we have to discuss, you are not going to be with me. So

17 once in a while legal matters may come up where we want to

18 talk with the lawyers and you are not going to be privy to

19 those conversations because it doesn't concern you. It could

20 be confusing, whatever.

21 So we'll sneak around to the sidebar and whisper so

22 you can't hear us. And that's what we will be doing from time

23 to time. You may see some of that not too many times, I don't

24 encourage sidebars because I don't like to interrupt the flow

25 of the trial.

Opening by the Court

1 The other important factual aspect of the case is
2 that people are going to testify, you are going to have to
3 size up their credibility; do you believe them, do you not
4 believe them, do you believe some of the testimony, not other
5 parts of the testimony.

6 So these credibility assessments are really a part
7 of the fact-finding responsibilities. I'm not going to make
8 those determinations. You are going to make those
9 determinations. I have no view of this case. I'm totally
10 neutral. You are neutral also in terms of the fact you have
11 no ax to grind but you should really be able to size up the
12 believability of the witnesses. That is an important part of
13 the fact finding responsibility.

14 People will be coming in and out of the courtroom
15 and you are going to be just like me, you are going to look to
16 see who is coming in because that is a natural curiosity.

17 Why is it that they are allowed to do that? Because
18 in is a public forum and the court is open to everybody so
19 people can come in and out and you are probably going to take
20 a look and see who those people are. You may find a lot of
21 people coming in and out of the courtroom.

22 When you leave, I already told you not to talk to
23 the lawyers nor anybody else. Just by yourselves, go home.
24 You can talk to your family not about the case of course but
25 if you pass anybody in the hallway, if you see anybody who you

Opening by the Court

1 recognize at lunch, don't engage that person in conversation.
2 Things can happen.

3 I remember when I was practicing law in a big case,
4 one day I was at lunch, I heard at the next table somebody
5 talking about the case, a future witness for the other side.
6 I really got an earful.

7 So things like that happen. So if anything happens
8 like that, just tell Mr. Innelli about it. Don't talk to
9 anybody else about it. If we have to replace the juror with
10 an alternate if something happens that could be very
11 prejudicial, then that's why we have alternates.

12 What we don't want to have to do is start the trial
13 over again because this is a waste of our time and taxpayer's
14 money obviously.

15 The issue of time is important. As I mentioned to
16 you before we had our lunch break, obviously if one of us are
17 late, that holds everybody up. There are times when people
18 are very late, then I'll replace them with an alternate. I
19 have to make those judgment calls but obviously, we don't want
20 to have 27 people waiting for one person and that applies to
21 me as well.

22 I drive to work from the lower part of Manhattan. I
23 come across the Brooklyn Bridge because I'm a little spoiled,
24 we have a garage here and I can park my car here. I encourage
25 people to take public transportation because if you drive, you

Opening by the Court

1 really don't know what to expect. It's a disaster sometimes
2 if you drive, especially in the early morning hours.

3 That's one of the reasons why I do it at 10:00. So
4 when I'm on trial, I don't give myself high marks for
5 timeliness, but I really try very hard to be here at
6 10:00 promptly and I just leave a little earlier than I
7 normally would in case there is some traffic congestion on the
8 Brooklyn Bridge. Otherwise, it's an imposition on you folks
9 if the judge isn't here.

10 So I'm going to try my best, even though it's not my
11 normal nature, to be punctual and you folks, if you have any
12 problems, call Mr. Innelli. But we don't want to keep people
13 waiting for a long period of time unless there is a critical
14 reason for it. So just be very sensitive about that.

15 If we have a civil trial and there is only eight
16 jurors, not as much of a problem but here we have 16 people
17 plus all the lawyers and all the parties involved in the case,
18 so be considerate and remember the biblical expression: Do
19 unto others.

20 You are going to be free to go about. We already
21 spoke about that. And since this is a long trial, you may
22 want to take some notes. You'll be given yellow pads, pens,
23 paper, whatever, and some jurors like to take copious notes.
24 Others, you know, we each learn by different ways. Some of us
25 learn better by just focusing and listening. Others focus

Opening by the Court

1 better by writing down little notes. Whatever you want. That
2 is okay. The important thing is to keep your eye on the
3 witness because you have to assess their credibility. And you
4 don't have to necessarily worry about remembering everything
5 that happens during the five weeks.

6 How can you remember everything that happens, but
7 when you deliberate, if you want to find out what did this
8 person say during the first week of the trial, you don't
9 remember, you may have notes but it's not who takes the best
10 notes that counts, it's the real thing that counts because we
11 have a skilled team of wonderful court reporters. You see
12 Allan right now taking down every word that happens during the
13 course of the trial.

14 So if you need a readback, it's here, so you don't
15 are have to worry about forgetting. It's not way in every
16 court in the country because some courts don't have the
17 personnel but we do here in our court. So you'll have at your
18 disposal whatever you need to read back.

19 If you take notes and I can understand for a four or
20 five week how you may want to keep yourself organized, keep a
21 little bit of a sense of what is going on day to day. You
22 will leave your notes behind. They are for your own personal
23 use. They are not to be shared with anyone else and you are
24 not going to be taking them home. Use it if it's helpful to
25 you by all means with the cautionary tales that I just told

Opening by the Court

1 about not to be obsessed with it.

2 So we are going to start at 10:00 barring unusual
3 circumstances and we try to put in a full day until 5:00. And
4 sometimes I may let you go a little earlier than five. I was
5 ready to let you go a little earlier today. Maybe we'll get
6 you out of here at a quarter to five, we'll see how it goes.
7 It depends what is happening at the time. If there is a
8 witness who is wrapping up his or her testimony and maybe it
9 will take another 10 minutes, maybe I'll keep you until ten
10 minutes after 5:00 instead of imposing on the person to come
11 back the next day.

12 Conversely, if we finish with the testimony at five
13 or a quarter to five, rather than start a new witness, we'll
14 let you go.

15 I make those judgments.

16 We'll take an hour for lunch, sometimes an hour and
17 15 minutes. You may want to enjoy the environment around
18 here. You are in a very nice place in Brooklyn. We have a
19 wonderful court facility here, a wonderful park and you can
20 walk down to the water and look at the magnificent vistas from
21 Brooklyn to the lower part of Manhattan. Enjoy Brooklyn
22 Heights. There are nice night restaurants here, and get a
23 sense of the community. It's a very rich environment around
24 here.

25 So you'll have a chance to do that. So whether

Opening by the Court

1 we'll break at 12:30, a quarter to 1:00, 1:00 it depends what
2 is happening in court. There are logical times to take a
3 break. It will be in that vicinity, an hour, an hour and 15
4 minutes.

5 I think that is pretty much most of what I wanted to
6 tell you except I'll just tell you a little bit about how the
7 trial unfolds.

8 Because the government has the burden of proof, it's
9 not surprising that the government has to present its case
10 first. We have a number of lawyers for both sides. I let the
11 lawyers decide who is going to question a witness. They may
12 divide up the case as they choose. That is perfectly okay.
13 And the government will start by, as I mentioned before, by
14 giving an opening statement. The defense lawyers will then
15 have the opportunity to speak to you as well.

16 As I mentioned, the purpose of an opening statement
17 is to give you a lit bit of a road map of what the government
18 hopes to establish and the defendants will have their say as
19 well and it will get you into the case. But what lawyers say,
20 that is not evidence. They are not fact witnesses. They
21 weren't there at any of these events that you are going to
22 hear about.

23 They are advocates and they are supposed to advocate
24 for your respective clients zealously. I know the lawyers.
25 They are all skilled lawyers who have been before me on other

Opening by the Court

1 cases. So you are going to hear very good advocacy.

2 I am not an advocate, I am neutral so I have to
3 level the playing field so to speak and try to make my rulings
4 that are fair to all sides. I have to do that so I'm not
5 advocating anything. So whatever I say, whatever I do is not
6 to be interpreted as having an opinion about the case.

7 You may see a witness testify and then I may
8 interrupt the witness and I will probably do that. If I do
9 that, I'm doing it for a specific purpose. Since you folks
10 are not permitted to ask questions, I sort of sometimes read
11 your minds.

12 If I'm confused about something, then one of you 16
13 folks might be confused as well. So I will ask the witness
14 some questions to clarify testimony which I think may be
15 ambiguous. If a witness is rambling on, I'll stop the witness
16 to try to focus his testimony instead of having it be
17 repetitious.

18 So you may see me interrupt from time to time but if
19 I do that and when I do that, I'm not telling you whether you
20 should believe the witness or not, I'm doing it for that
21 particular purpose to get the case moving along. If it starts
22 to drag, I'll start to pull in the reins and you'll see some
23 of that as well.

24 The lawyers may disagree me which is perfectly their
25 right. It's okay, but we're going to try to give everybody a

Opening by the Court

1 fair trial and you'll see this thing unfold in the real world
2 over the next five weeks.

3 I think that is about it.

4 When the government finishes calling all of its
5 witnesses and there has been questioning of those witnesses
6 back and forth, cross-examination, direct, redirect, then the
7 defendant has the opportunity, the right to put on witnesses
8 and introduce evidence if the defendant wishes to do that. A
9 lot of times during the questioning session, the defense will
10 bring out information and they may not think it's necessary to
11 put witnesses on the stand when their turn comes but we'll see
12 how that plays out.

13 The defendant, as you know, doesn't have to testify.
14 So we went through this a little bit in the questioning
15 process and it's on the questionnaires that you filled out.
16 You can simply say yes, no, it's quick to do that.

17 It's so terribly important for me to emphasize once
18 again that the burden is on the government and the defendant
19 doesn't have to do anything, doesn't have to produce a
20 witness, doesn't have to even cross-examine. That probably
21 will not be the case but why is that? Because the defendant
22 can just sit back and at the end of the day say members of the
23 jury, I'm going to tell you that the government has not proved
24 its case and tell you why.

25 So that is the right of the defendant in our U.S.

Opening/Government/Paul

1 Constitution to stay mum. If the defendant chooses not to
2 testify, you know that under the Fifth Amendment of the
3 Constitution of the United States, you can not hold that
4 against them. That is their right.

5 So if someone exercises their constitutional right,
6 you don't penalize them for doing that; why didn't you tell us
7 the story. He has the right to do that. You can't hold that
8 against him. Easy to say but sometimes hard to apply that in
9 the real world.

10 I'll tell you about that two or three more times
11 before I send you into the jury room to make sure you don't do
12 that and you don't speculate at all.

13 I may have forgotten some things. If I have, I will
14 just pop up and talk again but I think you have a good sense
15 of what we are all about here and at this time I am going to
16 call upon the government lawyer who is going to give the
17 opening statement on behalf of the government.

18 Its that you, Ms. Dayananda?

19 MS. PAUL: No, it will be me.

20 THE COURT: Ms. Paul.

21 MS. PAUL: Yes.

22 This is Damion Hardy. His nickname is World. And
23 over the next few weeks, you are going to learn that that is a
24 fitting nickname because between 1998 and 2004, Damion Hardy
25 operated as if this was his world, a world where drug dealing

Opening/Government/Paul

1 and violence reigned supreme, a world where his loyal
2 followers did whatever he said without question, a world where
3 he could decide who lived and who died.

4 He made that decision in the blink of an eye with
5 the snap of his fingers. And a gang of cold-blooded murderers
6 that he controlled was ready to kill at his command.

7 This is Aaron Granton. His nickname is EBay. He
8 was one of those killers, an expert hitman devoted to World
9 who executed people without thought and with such cold
10 precision that World used him to murder again and again.

11 Between them, the defendants murdered seven people.
12 Michael Colon, Darryl Baum, J.R. Hamilton, Ivery Davis, Johan
13 Camitz, Tyrone Baum and Troy Singleton, gunned down by the
14 defendants in the streets of Brooklyn, Manhattan and Queens.

15 The defendants killed for power. They killed for
16 money and they killed for revenge. They killed so that no one
17 would question World's reputation and the reputation of the
18 gang that he formed, a gang of violent drug dealers that
19 called themselves the Cash Money Brother CMB.

20 World started the Cash Money Brothers when he was
21 just a teenager. The name was taken from the movie New Jack
22 City which portrayed the gangsters that they admired. And
23 they lived up to that name. For more than a decade, the CMB
24 controlled the drug trade in a housing project in Bed-Stuy
25 Brooklyn just a few miles away from this courthouse called

Opening/Government/Paul

1 Lafayette Gardens.

2 Lafayette Gardens or LG as they called it had seven
3 buildings that circle a courtyard. It has a basketball court,
4 a playground. It's a place where families and children live.

5 The defendants, World and EBay, grew up there. And
6 when Worlds was still a teenager, he looked around and he saw
7 that other older men had what he wanted, control of the open
8 air drug trade that his project housed. Crack, heroin,
9 marijuana, all those things were for sale.

10 And in the 1990s, the crack business was booming.
11 World was smart and manipulative and charismatic. And even as
12 a teenager, he pulled the strings and pushed the buttons that
13 made other people do what he wanted.

14 In the early 1990s, he gathered a group of his
15 friends together, kids that were small time drug dealers in
16 the neighborhood and he told them that it was their time to
17 take over Lafayette Gardens.

18 He armed them with guns and he told them to have his
19 back as he went around to the other drug dealers in the
20 neighborhood and told them this is my turf. And when talking
21 didn't work, World turned to violence. And soon World and his
22 crew shot their way to control of the drug trade in Lafayette
23 Gardens.

24 World always lived by the motto: Never do for
25 yourself what you can have other people do for you.

Opening/Government/Paul

1 That's how he took over Lafayette Gardens and that's
2 how he set up his drug business. World bought crack from
3 suppliers but he tried not to get his hands dirty when it came
4 the street dealing.

5 He had baggers to package the drugs. He had
6 lieutenants to pass the drugs out and collect money from the
7 workers and he had workers who sold day and night to
8 customers.

9 He also had enforcers to make sure that everybody
10 stayed in line. The crew made thousands of dollars a day.
11 From early on, EBay was a loyal soldier. EBay started as a
12 worker and he soon earned a reputation as a tireless drug
13 seller, a hustler. But EBay soon displayed another talent
14 that changed his role, the skill and the willingness to shoot
15 at other people.

16 World didn't let that kind of brutal talent sit
17 still and soon EBay became the CMB hitman. EBay was one of a
18 number of shooters that World had at his disposal. World used
19 them to control his drug territory which funded his life-style
20 and protected his reputation on the street.

21 World became a master at sizing up rivals that might
22 threaten his drug turf and retaliating against anybody that
23 stood in his way, and that meant anybody. Everyone was
24 disposable, which meant that CMB was constantly at war with
25 rival gangs and that gunfire was part of life for the people

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1 in Lafayette Gardens.

2 Time after time World directed the shooters,
3 including EBay, at rivals. And you'll hear that he handed out
4 death sentences with a simple phrase: "He has to go," and the
5 CMB gunmen knew just what to do.

6 In 1995 when a rival named Munchy told some of
7 World's drug workers that they could not sell in Lafayette
8 Gardens, World was enraged. He ordered one of his shooters to
9 come with him and the two of them lured Munchy to a nearby
10 housing project. Once there, on World's order, the gunmen
11 shot Munchy multiple times. Munchy survived but he was
12 wheelchair bound and never walked again.

13 World made the message clear. If anyone threatened
14 his power, they would have to go. And that is exactly what
15 happened to Michael Colon in the spring of 1998.

16 By 1998, World had been in business for a number of
17 years and his reputation had spread beyond Lafayette Gardens
18 into other parts of Brooklyn, or at least that's what he
19 thought.

20 At this time the Empire Roller Rink in Brooklyn was
21 a popular place to hang out. And in April of 1998, World
22 arrived at the door and was not allowed in. He got into a
23 fight with some of the rink's bouncers and he was roughed up.
24 World was embarrassed and enraged and he returned to Lafayette
25 Gardens to handle it the CMB way. The bouncer had to go.

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1 Within an hour, World grabbed one of his associates,
2 drove him back to the rink and armed him with a gun and on
3 World's orders, that associate jumped out of the car and shot
4 the bouncer, Michael Colon, once through the chest killing
5 him.

6 Michael Colon was 28 years old. World and the CMB's
7 reputation was solidified by ruthless acts like these. In his
8 mind, World was untouchable, but in the summer of 1999,
9 something happened that struck at the very core of everything
10 that had meaning to World; his drug turf, his crew and his
11 reputation. On June 12, 1999, World's older brother, Myron
12 Hardy who was also called Wise, he was one of the CMB's
13 leaders and drug bosses, he was murdered in broad daylight
14 outside in the middle of Lafayette Gardens, right in the heart
15 of CMB territory.

16 World was enraged. He wanted answers and he wanted
17 revenge. This was more than a threat to his drug territory,
18 this was his brother, this was his ego, and there was only one
19 way to respond. Everyone that World even had a hunch had
20 anything to do with his brother's murder had to go. They had
21 to die.

22 The first was Ivery Davis who was also known as
23 Peanut. Even though Peanut and World grew up together in
24 Lafayette Gardens, in World's mind, Peanut's cousin killed his
25 brother, so Peanut had to go.

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1 The second was J.R. Hamilton, a man that World heard
2 helped the shooter get away after the murder.

3 The third was Daryl Baum, a friend of Peanut's and a
4 man with his own violent reputation. World saw him as a
5 threat.

6 As soon as World gave the order to kill these
7 people, the CMB hunted them. World's orders were to kill
8 on-site and EBay was ready to put in the work. Daryl Baum was
9 the first victim. On June 10, 2000, almost a year to the day
10 after World's brother was murdered, EBay executed Daryl Baum.

11 That evening the CMB spotted Daryl Baum standing on
12 a corner in Bed-Stuy talking to a friend and they quickly went
13 to work.

14 First, a CMB member whose name was Allen Bryant or
15 Boo, another one of World's trusted shooters, he arrived to do
16 the job, but when Boo saw that Darryl Baum was surrounded by a
17 group of people, he backed out. So who did they call to get
18 the job done? This man, EBay, the professional hitman.

19 EBay was told where to find Baum. He arrived on the
20 scene and then he skipped, actually skipped up to Darryl Baum,
21 pointed his gun and shot him through the head.

22 EBay escaped in the getaway car driven by another
23 CMB member and boasted that he shot Baum while Baum was
24 bending down to tie his shoe.

25 Darryl Baum's friends tried to save him by putting

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1 him in a car and driving him to the hospital but it was too
2 late. Darryl Baum was dead.

3 Two months after EBay killed Darryl Baum, J.R.
4 Hamilton was the next victim. On August 1st, 2000, the CMB
5 spotted J.R. sitting in a restaurant that he had just opened,
6 a small seafood place in Bed-Stuy. It was nighttime and
7 because he was sitting in front of a large glass window, he
8 could clearly be seen from the outside.

9 CMB members including EBay found out about J.R.'s
10 restaurant and drove by in hopes of spotting him for the kill.
11 When they saw J.R., they went to an apartment where EBay
12 strapped on a bulletproof vest and armed himself with a gun.
13 The hit team drove back to the restaurant. EBay got out of
14 the car and walked up to the glass window and he fired his
15 gun. Bullets flew through the glass, through the chair that
16 J.R. Hamilton was sitting in and into his body. People in the
17 restaurant scattered. EBay's gun jammed but EBay did not
18 flinch. He coolly cleared the jam in his gun and continued to
19 fire at J.R. Hamilton, hitting him three times in the back and
20 in the arm.

21 J.R. Hamilton died in the hospital about a week
22 later and EBay later bragged about that killing and was
23 praised by CMB members for his fearlessness under pressure.

24 Peanut was the third man to die in World's mission
25 for revenge. While J.R. Hamilton and Darryl Baum were

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1 important victories for World, the true prize was the murder
2 of Peanut, the cousin of his brother's shooter.

3 A little more than a week after J.R. Hamilton died
4 on the floor of his restaurant, EBay assassinated Peanut. The
5 CMB had been hunting Peanut for a while, shooting him without
6 success. But one night, World spotted Peanut at a nightclub
7 in Manhattan and this was the moment he had been waiting for.

8 Who did he call? EBay, of course, a man who could
9 get the job done.

10 World pointed out Peanut who by then had left the
11 club and was sitting in the driver's seat of his Range Rover
12 on the street. Surrounded by cars and other pedestrians, EBay
13 the sprung into action. EBay stood behind the Range Rover and
14 fired his gun into the driver's side of Peanut's car, and he
15 did not miss. Hit in back by EBay's shots, Peanut slammed his
16 foot on the gas and tried to escape. As Peanut's car flew out
17 of control, it ran into a pedestrian who was thrown into the
18 air and landed feet away, wrapped around a pole.

19 The car flipped over on its side, smashing to the
20 sidewalk and came to rest in front of a restaurant. The
21 pedestrian, Johan Camitz, was a film director who had just
22 come to New York and the at the moment EBay pulled the
23 trigger, Johan Camitz was standing nearby on the sidewalk
24 talking to a girl that he had just met. He could never have
25 known it but that would be the last conversation of his life.

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1 He died in the hospital. Peanut was pronounced dead on the
2 scene.

3 In just two months, World and EBay had executed four
4 people. But the killing did not stop there because back when
5 EBay skipped up and shot Darryl Baum in the head, World and
6 the CMB made an enemy of another potential threat and that was
7 Darryl Baum's brother Tyrone Baum.

8 Tyrone Baum was in jail when Darryl Baum was
9 murdered by the CMB and when Tyrone Baum got out of jail in
10 2003, he wanted revenge.

11 World learned about that and dealt with it in the
12 usual way. Tyrone Baum had to die. And with that order, the
13 CMB knew what to do. Tyrone Baum was to be killed on sight.

14 On July 25, 2003, members of the CMB spotted Tyrone
15 Baum working at a construction site in Bed-Stuy. At about
16 3:30 in the afternoon, CMB members drove Boo, World's other
17 shooter, to take care of business.

18 Boo got out of the car, walked up to Tyrone Baum and
19 without a word, shot him in the head. And in the chaos that
20 followed, Boo returned to the getaway car and sped away as
21 Tyrone Baum lay in a pool of blood still wearing his orange
22 construction vest.

23 Six murders in six years on behalf of the CMB, all
24 ordered by World and carried out, four of them carried out by
25 EBay with precision.

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1 EBay committed murder with such precision that other
2 gangsters started to take notice. In the drug world, a good
3 hitman is hard to find, and news of EBay's skill traveled
4 fast. So in 2001 when an infamous gangster from Queens wanted
5 someone dead, EBay was approached to do the hit. He agreed to
6 join a team of men who were assembled to execute a rival of
7 this Queens gangster.

8 EBay was promised money for his work. On
9 October 28, 2001, a hit team drove to a sports bar in Queens
10 where the victim had been spotted. They waited for him
11 outside of the bar and when he came out, the hit team went to
12 work.

13 EBay and the others jumped out of the car and
14 executed the victim and then they drove away. EBay was paid
15 about \$5,000 for that murder.

16 The body of the victim, 33 year old Troy Singleton
17 was riddled with bullets. He was rushed to the hospital where
18 he was pronounced dead.

19 You might be asking yourself how did World and EBay
20 and the CMB get away with murder for so long. One very
21 powerful way was fear. Fear was as important as cash in the
22 business of the CMB. People knew the consequences of messing
23 with them.

24 They learned that lesson all the way back in 1994
25 when Teresa Gregory, a girl who grew up in Lafayette Gardens,

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1 decided to testify in court against a member of the CMB.

2 This CMB member had shot a girl in the courtyard of
3 Lafayette Gardens and Teresa Gregory had witnessed the murder.

4 The CMB member was arrested and charged with murder.
5 Teresa Gregory testified at the trial of that CMB member and
6 he was convicted.

7 Time passed but World did not forget. About a month
8 after Gregory gave birth to her first child, she came to
9 Lafayette Gardens to see her mother. She dropped the child
10 off with her mother and then she went out. And in the
11 courtyard of Lafayette Gardens, she saw World circling her on
12 a bicycle.

13 Moments after she saw World, acting on his orders, a
14 CMB member shot Teresa Gregory. She was rushed to the
15 hospital but survived. She was 24 years old.

16 That, ladies and gentlemen, is a snapshot into the
17 World of the CMB. You have just heard about some of the most
18 vicious acts that they committed but it didn't end there. The
19 defendants lived in a world fueled by crime and violence for
20 more than a decade, robbery, kidnapping, drug dealing as well
21 as shootings and murders. And for these crimes, the
22 defendants have been charged with racketeering, which means
23 that they committed these crimes as part of a gang.

24 World, the gang's leader is charged with murder,
25 attempted murder, drug dealing, robbery, kidnapping and

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1 firearms offenses.

2 EBay, his loyal hitman, is charged with murder,
3 murder for hire, drug dealing and firearms offenses.

4 Over the next few weeks, you are going to hear
5 evidence that proves beyond a reasonable doubt that the
6 defendants are guilty of these crimes.

7 The evidence is going to come to you in a variety of
8 forms. First, you are going to have a chance to hear from
9 members of the gang, people that were part of CMB who will
10 take the stand and tell you what it was like to work for
11 World.

12 They will tell you about the crimes they committed
13 for him and the CMB. And they are all criminals who have
14 committed all kinds of crime, murder, drug dealings,
15 shootings, frauds, you name it.

16 These witnesses have pleaded guilty to their crimes
17 and their involvement with World and the CMB and they will be
18 testifying pursuant to a cooperation agreement with the
19 government in hopes that by testifying, they will receive a
20 more lenient sentence.

21 Scrutinize their testimony closely, but keep in mind
22 that at the end of the trial, you are not going to be asked to
23 decide whether or not you like these witness. You are going
24 to be asked to decide whether you believe them. And when you
25 hear their testimony and see how it is supported by all of the

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1 other evidence in the case, the answer will be yes, you do.

2 Their testimony will be supported by each other and
3 by all of the other evidence. You will hear evidence about
4 the murders. You are going to see photographs of crime
5 scenes, autopsy reports from the medical examiner, ballistics
6 evidence. You are going the hear from law enforcement
7 officers who responded and other witnesses who were there.
8 You will hear about drugs and guns seized from CMB's stash
9 houses. You will see phone evidence. You are going to see an
10 AK-47 that was seized after law enforcement interrupted a
11 kidnapping and robbery committed by World and his crew.

12 Ladies and gentlemen, over the next few weeks, you
13 will enter the World of Damion Hardy, a world of drugs,
14 violence and ruthless acts of mayhem committed by him and by
15 EBay.

16 And at the end of the trial, I am confident that you
17 will return the only verdicts that the evidence overwhelmingly
18 supports, and that is a verdict of guilty for both defendants.

19 THE COURT: Thank you, Ms. Paul.

20 Now, Mr. Ruhnke, do you wish to speak to the jury?

21 MR. RUHNKE: I do, and I will ask Mr. Innelli to
22 switch to the laptop on defense table and hopefully, the
23 technology will work and we will see --

24 Would you change the lights if you will. It should
25 be on the screen in front of you.

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1 We'll go with what we have.

2 Ladies and gentlemen, do you have that on the screen
3 in front of you?

4 I want to remind you again of my name. My name is
5 David Ruhnke. I'm an attorney. My partner Jean Barrett and I
6 have been given the responsibility of conducting the defense
7 of Damion Hardy and to bring to you information that you need
8 to make the important decision that has been committed to you
9 by signing on as jurors.

10 As Judge Block told you, we have been appointed by
11 the Court in that role. We are pleased and honored to accept
12 the role of defending Damion Hardy.

13 You just heard an opening by the government and
14 there were some remarkable things about that opening. One of
15 the aspects of the opening is it was quite long on where the
16 government wants this journey to end.

17 It was quite long on where the government wants you
18 to end up at the end of the process. It was quite short on
19 how they are going to get there. It was quite short on the
20 nature of the evidence. To an unusual degree, to a high
21 degree, the evidence you are going to hear in this case comes
22 from the mouths of cooperating defendants. I guess is the
23 best way to describe them, people who are going to ask you to
24 simply trust their word to a high degree. There will be no
25 evidence past the word of cooperating witnesses as to what

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1 occurred, as to who was involved, as to what the motives were.

2 You will not see any DNA evidence about murders.

3 You will not hear any murders being planned over a telephone
4 intercepted conversation. You will not see any surveillance
5 video of Mr. Hardy committing any crimes.

6 You will simply be stuck with the word of people
7 whose word you wouldn't take for today is Wednesday if you
8 were in your own environment, people who have laughed at
9 society's rules for their whole lives; people whom the
10 government says basically, although they would kill, although
11 they would rob, although they would scam, although they would
12 steal, they stop short of telling a lie in court. And every
13 motive in the world to lie is placed on these folks.

14 So let me see the next slide down, please.

15 You'll hear words that you are not overly familiar
16 with. And I'm going to go through some of these words that
17 are going to come up throughout the testimony of the
18 witnesses.

19 And I want to start with the end of the list which
20 is death penalty. No one in this case is facing the death
21 penalty. These two gentlemen on trial do not face the death
22 penalty. However, as you know if you are following the Boston
23 case, we don't have a death penalty in New York but the
24 federal government does. And you'll find out from their
25 testimony that several of the witnesses who come before you in

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1 fact could have faced the death penalty, were exposed to the
2 death penalty, committed crimes that could potentially
3 implicate the death penalty.

4 And we're going to go in reverse order. The next
5 term up above that is mandatory life. Mandatory life.

6 You'll learn that in the federal system, there is no
7 parole. And you'll learn that there are certain crimes that
8 carry with it a mandatory sentence of life imprisonment. The
9 judge has no role in it and it's only under certain
10 circumstances that somebody can get out from under that kind
11 of sentence. And many of the witnesses who you will hear from
12 face mandatory life in prison terms. You'll see the term
13 5K1.1. You'll hear the term 5K. You'll hear it described as
14 a 5K letter. You'll hear it described as a 5K motion.

15 The witnesses themselves are conversant with exactly
16 what that means. And here is the payoff for cooperation. As
17 I told you, many of the crimes with which folks have been
18 charged here who will be testifying carry with it mandatory
19 life sentences. If you are found guilty, you go to prison.
20 You die there. You do not come out. There is no parole.
21 There is one and only one way around that and that is if the
22 government goes to bat for you and if the government files
23 what is known as a 5K letter which says judge, this person has
24 been cooperative and we ask the Court to consider the
25 cooperation and you now have the discretion not to sentence

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1 this person to life.

2 This is the prize. This is what is at the end of
3 the rainbow for the cooperating witnesses. They have entered
4 into plea agreements which means we promise to do certain
5 things and the witness and the government then promises to do
6 certain things back, which is to move the judge to display
7 some kind of leniency towards the witness. That is what is at
8 stake here.

9 And the government's theory and argument here is
10 that well, they are now motivated to tell the truth because
11 this is the only way that they are going to get the deal.

12 Consider it from the mindset of a witness --

13 MR. AMATRUDA: Objection.

14 THE COURT: Sit down.

15 Overruled.

16 Go ahead.

17 MR. RUHNKE: Consider it from the mindset of a
18 witness who has manipulated and flaunted the law and defied
19 society's norms their entire life. Their motive is: How do I
20 get this deal? What do I have to do to get this deal?

21 And you'll learn from the evidence that is presented
22 that many of the witnesses started off telling one version of
23 events, then later on changed it to another version of events.

24 You'll hear some evidence that witnesses had engaged
25 in criminal activity after, after making a deal with the

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1 government, kept their deal and were allowed to continue on
2 with their cooperation agreement in the hope of getting a deal
3 down the road.

4 Next slide.

5 So these are some of the people you will meet or
6 hear about. Remember just a few minutes ago when Ms. Paul
7 told you about a gentleman named Boo and a murder he had
8 committed. Boo is going to be one of the first people who you
9 meet in this case from the witness stand.

10 Everybody has a nickname and I just can't begin to
11 tell you how difficult sometimes it's going to be for all of
12 us to follow testimony about what Boo and Rab and Taz did
13 while out with Kissie and just very difficult to follow. You
14 are going to hear a lot of that and trying to keep track of
15 the cast of characters is going to go a challenge for all of
16 us.

17 But you'll hear evidence about Dwayne Myers, named
18 Thor, committed murder. Edward Cooke, his girlfriend, Kissie,
19 Kissie Clayton, an unusual name.

20 You heard Ms. Paul talk to you about a man who shot
21 someone named Munchy 10 times, put him in a wheelchair for
22 life that is Robert Footman who you will also hear from as a
23 witness. His nickname is Troub as in trouble.

24 You'll hear from a man named LeSean Campbell. Mr.
25 Campbell's specialty was robberies, robbing people on the

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1 street, taking their property with an unusual MO. Would walk
2 up behind people, put them in a choke hold, render them
3 unconscious. While they were unconscious, he would take their
4 property. This is the government's witness LeSean Campbell.

5 And I want to talk to you about how the government
6 can go about proving a case if it has more than the word of
7 cooperating witnesses. And I want to talk about Edward Cooke,
8 Taz, who is on that list and his girlfriend Kissie.

9 Here's what happened with Edward Cooke and Kissie.
10 They tried to do a 6-kilo cocaine purchase. They were going
11 to buy 6 kilograms of cocaine. Unfortunately for them, they
12 met up, hooked up with an individual who was acting as an
13 informant for it turns out to be the Department of Homeland
14 Security who tape recorded phone calls with them while the
15 deal was being set up so that that is on record. You can
16 listen to those phone calls if you want and say yeah, they are
17 talking about a drug deal here. But listen to this. On the
18 day that this 6-kilogram was set to go down, the federal
19 government had a helicopter hanging over a parking lot in
20 Brooklyn for a couple of hours surveilling the whole thing.
21 They watched the deal go up. They watched Kissie Clayton and
22 they watched Edward Cooke, Taz, arrive at the scene, and then
23 everybody met inside a large SUV which was wired for sound and
24 sight so that every bit of the crime and every bit of the
25 transaction was video recorded, tape recorded so you don't

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1 have to take anyone's word for what happened inside the SUV
2 that day. You don't have to take anybody's word for what was
3 going on.

4 And I respectfully suggest to you, as you listen to
5 this case unfold, you are going to be asking yourself where is
6 that evidence.

7 So let's look at some of these folks.

8 Upper left-hand corner, that is Taz. That is Edward
9 Cooke. And all of these folks are going to be testifying as
10 government witnesses.

11 What do they have in common? They all come with
12 long criminal records. What do they have in common? They
13 have all made a deal with the government. And this is just a
14 sample of the people you are going to hear from.

15 So Taz is upper left.

16 In the middle is a guy named Zareh Sarkissian. They
17 call him Puff. He was in on the murder of Tyrone Baum. The
18 other guy in the upper group is Robert Footman, Troub. He was
19 the one who shot Munchy 10 times and paralyzed him for life.

20 In the lower left is Boo, Allen Bryant, who you may
21 even meet today or tomorrow.

22 And in the lower right-hand corner, that is Thor.
23 That is Dwayne Myers.

24 Let me tell you about some of the deals that the
25 government is capable of offering based on evidence that you

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1 will hear in the case.

2 You take Kissie Clayton, Taz's girlfriend. They are
3 caught with the 6-kilogram cocaine deal that they are dead to
4 rights on tape for, but there is more to it.

5 When Tyrone Baum was murdered, you heard about his
6 being released from jail and being murdered, his brother
7 Darryl Baum had also been murdered, you'll hear Darryl
8 referred to by his nickname, Homicide, an unusual nickname,
9 but when they needed a gun to get to the scene of Kissie
10 Clayton -- of Tyrone Baum's murder, Taz calls up his
11 girlfriend Kissie and says: Get in a cab and bring the gun
12 over here.

13 So she is charged, she is an accessory to murder.
14 She delivered the murder weapon. She is dead to rights on a
15 6-kilogram cocaine deal and she is charged with lying to a
16 federal officer. And that's all she winds up getting charged
17 with and is placed on probation and Taz now becomes a
18 government cooperator.

19 So next slide.

20 So questions you should really be asking yourself as
21 you listen to the evidence is first, what is the source of
22 this information? Where are you getting this information
23 from?

24 You say well, there is the murder of Tyrone Baum.
25 Let's figure out who was the source of the information. Ask

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1 yourself what do I know about the source; is this a reliable
2 person; is this just a citizen who happened to come upon
3 something; or is this somebody who is on the make?

4 And you are going to be hearing some people I
5 suggest respectfully you will find from the evidence who are
6 on the make.

7 Ask if there is backup; is there corroboration; what
8 backs this up?

9 And if somebody is a liar or somebody disregards the
10 truth habitually, to say well there are other liars who back
11 him up isn't really getting us very far.

12 Is it really just a matter of you're being asked to
13 trust people who if this was something important to you, you
14 wouldn't trust for 10 seconds of your lives?

15 So the final slide is, and I'm the last one who
16 should be defining what the law is, that is Judge Block's job,
17 but you heard all through that the government has the burden
18 of proof beyond a reasonable doubt.

19 And all that means is that if at the end of the day,
20 at the end of hearing all the evidence you are not convinced
21 personally and collectively as a jury of guilt beyond a
22 reasonable doubt, then you are required as a matter of your
23 oaths as jurors to return a not guilty verdict.

24 Not sure beyond a reasonable doubt, very simple, not
25 guilty.

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1 So as you can see, there are competing versions
2 about what you are going to be hearing over the next three or
3 four weeks.

4 I appreciate your attention and at the end of the
5 case, either Ms. Barrett or I will be back to talk to you
6 again. We are going to urge you at that time to return not
7 guilty verdicts.

8 Thank you.

9 THE COURT: Thank you, Mr. Ruhnke.

10 Mr. Herman, do you wish to make an opening or Mr.
11 Beecher?

12 MR. BEECHER: Good afternoon, ladies and gentlemen.
13 You may have forgotten who I am. It's been a while.

14 My name is Robert Beecher and I am one of the
15 attorneys for Aaron Granton who you now know is also known as
16 EBay.

17 And Mr. Herman and Ms. Pennetti are my esteemed
18 colleagues, and of course we have Mr. Ruhnke and Jean Barrett
19 also at the defense table.

20 It's always easier to go last because so much of
21 what I was going to remind you of has already been said by I'd
22 like to call Mr. Ruhnke Professor Ruhnke. He is a very
23 knowledgeable attorney.

24 And so some of what I was going to say I'm not going
25 to belabor the point, it's already been said to you. But like

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1 anybody who else addresses individuals in a public forum like
2 this, I am no different than any of you. I get nervous. I've
3 been doing this a long time. I still get nervous. And I can
4 guarantee you that when I sit down, there are things that I
5 wanted to remind you of that I will have forgotten to remind
6 you of and I'll kick myself under that table and I'll hope
7 that you when you eventually deliberate in this case, well,
8 you know Mr. Beecher didn't talk about that in his opening but
9 you are free to talk about it and I hope you do during your
10 deliberations.

11 Now, I want to just -- I do want to start out right
12 away by acknowledging kind of the elephant in the room here
13 which is the tragedy of Mr. Johan Camitz's unfortunate
14 passing.

15 As you already know, there may have been a
16 misimpression by the way that he was gunned down and I'm sure
17 that that was not purposeful but that was at the very
18 beginning of the government's opening statement remarks.

19 As you now know, he was essentially run over by an
20 automobile driven by Mr. Ivery Davis and he was killed.

21 There is nobody in this courtroom who is familiar
22 with that and you are now familiar with it who does not
23 acknowledge the tragic circumstances of his passing. And you
24 should know that we all feel the same way.

25 But that is not the point of this trial. The point

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1 of this trial is how did we get to that place and is Mr.
2 Granton responsible for bringing us there or is Mr. Hardy?

3 I represent Mr. Granton.

4 In any kind of a criminal case, your job is to find
5 the facts. Now, Judge Block has already gone over this at
6 some length with you but ultimately, you are the arbiters of
7 what is believable and what is incredible, not believable.

8 As Mr. Ruhnke has so correctly pointed out, we have
9 witnesses in this case who are essentially singing the same
10 sheet of music. They are all individuals with lengthy
11 criminal histories. They all have motives provided to them
12 after their arrest by the government to come before you and
13 testify. And I'm not insinuating, by the way, that the
14 government is asking them to lie. That is something they will
15 do on their own. These are honorable attorneys. They are
16 colleagues of ours. We're all lawyers in the system. When
17 you see us greet each other, we just happen to be on different
18 sides but these are honorable people. And they can't pick
19 their witnesses. They can't go into a Boy Scout camp and pick
20 out their witness. That's not the way it works.

21 Regrettably, however, you are going to listen to
22 people who have what a professor of mine used to call in law
23 school a motive to falsify.

24 And I loved Professor Cyress. He was wonderful.
25 And that phrase has stuck with me for over 40 years; a motive

Opening/Defendant Granton/Beecher

1 to falsify. And you will learn that these gentlemen who will
2 be testifying, these government cooperators; Troub, Taz; the
3 crew, them ample motives to testify.

4 There is a -- they will have a muscular, literally a
5 muscular and brutal dedication to bending and folding and
6 mutilating, spindling the truth for their own personal gain.
7 They did it in their daily lives when they were on the street
8 and they are doing it now.

9 Some of them are incarcerated so that they do not
10 have to be in custody very much longer. That is an important
11 incentive to come before you, the finders of the fact, and say
12 things which are not necessarily so.

13 And speaking about things which are not necessarily
14 so, I don't know how many of you folks are familiar with the
15 wonderful Gershwin operetta, Porgy & Bess. You don't have to
16 raise your hand. But there is a wonderful song and it was
17 called, "It Ain't Necessarily So," and a lyrics when something
18 like this -- I promise I'm not going to sing it -- "It ain't
19 necessarily so. The things that you're liable to read in the
20 Bible, it ain't necessarily so.

21 Well, this is the perfect forum for that maxim. It
22 isn't necessarily so. And you will find out soon enough why.
23 You will find out, as Mr. Ruhnke so correctly pointed out,
24 that a number of the witnesses who will come before you even
25 during their cooperation decided that it was in their best

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1 interests to commit further criminal offenses.

2 And you'll be sitting here: What is this? They
3 agreed to come in and tell the truth and yet they are out
4 there on the street committing other crimes. How can we
5 believe anything that they say? Anything?

6 There's a principle in Latin known as falsus in uno,
7 lie about one thing, lie about everything, and we suggest that
8 they are lying about just about everything.

9 A number of you when you were voir dired by Judge
10 Block, you talked about your hobbies and many of you go to the
11 movies. And I'm sure most of you are familiar with the term a
12 film noir, N-O-I-R.

13 Well, this is going to be a film noir with -- in
14 technicolor though. And it's going to highlight mendacity,
15 lying in high definition. Most of us have high definition
16 televisions.

17 Now, that's what you are going to get in here, you
18 are going to get a high definition example of prevarication,
19 lying. It's in their interests to do so.

20 They are also have an interest, as the government
21 will suggest and properly so, to tell you the truth because if
22 they don't tell the truth, they are not going to get their 5K
23 letter.

24 Right?

25 I mean that has been part of the preview here.

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1 However, who is going to say whether they are telling the
2 truth?

3 That's up to you.

4 And we suggest that they are not telling the truth.

5 And why do we suggest that? Because there is going to be
6 evidence that they are not.

7 What kind of evidence? For example, time lines.

8 Time lines are going to be very, very important in this case.

9 We have no obligation to say anything to you. I don't have to
10 give an opening statement.

11 As you know, Mr. Granton, EBay, he doesn't have to
12 say a word. He can sit there and twiddle his thumbs for the
13 next five weeks. It doesn't matter. But I am going to make a
14 promise to you however, and that promise that if you pay close
15 attention, you will see that the times of certain events will
16 become critical and I don't want to -- I would love to tell
17 you why now but I just cannot do that. I am going to ask you
18 to pay close attention because after all, that is your job as
19 jurors.

20 Your job is, to use a wonderful philosophy that came
21 from the great University of Wisconsin of which I am a very
22 proud alum, and that is that the continual fearless sifting
23 and winnowing by which the truth is to be found is to ask
24 questions. That is how we get knowledge, the continuous,
25 fearless sifting and winnowing.

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1 And that's what we are asking you to do in this
2 trial. You will have to sift and winnow a lot and it's not
3 going to be very pleasant sometimes, but at the end of the
4 day, we urge you to conclude that the evidence presented to
5 you is simply not sufficient to render a guilty verdict; that
6 it raises more questions than there are answers and if there
7 are more questions than answers, that is reasonable doubt and
8 if you have a reasonable doubt, more questions than answers,
9 your verdict must be, as Judge Block will tell you, not
10 guilty.

11 Now, I'm pretty much finished because Mr. Ruhnke was
12 kind of enough to say many of the things I was going to say
13 and we are not going to repeat them for you, but you also must
14 pay close attention to the fact that on your oaths and in your
15 questionnaires, you were reminded repeatedly that we have
16 absolutely no obligation to put anything before you.

17 As I said a few moments ago, I don't have to give
18 this opening statement. I have no burden. That is the
19 government's burden.

20 The defendants, my client, Aaron Granton, does not
21 have to testify. And sometimes that is a very, very difficult
22 concept for people to wrap their heads around.

23 And why is that?

24 Because all of us remember when we were in middle
25 school or high school, wherever we were in school and if we

Opening/Defendant Granton/Beecher

1 were sitting in the back of the classroom and there was noise
2 and the teacher said -- well, I'm Mr. Beecher, okay -- Mr.
3 Beecher or Robert, you'll have to go to the principal's
4 office, I don't like the fact that you were talking. If I
5 wasn't talking, what would my reaction be? To raise my hand
6 and say but teacher, it wasn't me.

7 Well, let's fast forward.

8 Here we are in the United States District Court for
9 the Eastern District of New York and Mr. Granton is accused of
10 very serious crimes, but guess what, he doesn't have to raise
11 his hand and say anything.

12 Even if you want him to say something, you must
13 instantly disabuse yourself of the notion that you have that
14 eager desire to hear from any defendant at any time ever. It
15 doesn't have to happen. And that's because in our
16 constitutional system, nobody is required who is charged with
17 a criminal offense to say anything at all.

18 Now, that is not always so easy to do sometimes but
19 you really have to do it.

20 Now, you are probably wondering, and this will be my
21 last remark to you because you have to be wondering, EBay,
22 where did EBay come from?

23 Because Mr. Granton is known as EBay. You are going
24 to hear a lot of testimony about EBay, EBay, EBay this, EBay
25 that.

1 Well, he certainly didn't get it from the website
2 EBay, but when he was a little boy, and there actually will be
3 testimony about this, when he was a little boy, probably about
4 the age of four or five, the name EBay came from a Jamaican
5 song. And somehow, some way it got attached to Aaron Granton
6 and that's where we get the name EBay from.

7 Because you must have been wondering a few minutes
8 ago, EBay, what, where is that coming from?

9 Now, you know.

10 Not a big deal but at least now, you know.

11 So you are starting off the trial with an absolute
12 certainty, that's where he got the name from, a Jamaican song
13 when he was a little boy.

14 I appreciate your patience on behalf of Mr. Granton.
15 Either Mr. Herman or I will be before you again at the end of
16 the proceedings, at the end of the evidence to address you
17 once more.

18 I ask you to keep in mind what Mr. Ruhnke and I have
19 reminded you of in terms of your obligations and what we
20 believe will be your perception of the evidence and at the end
21 of the day, you will render a verdict of not guilty.

22 Thank you so much for your time.

23 THE COURT: Thank you, Mr. Beecher.

24 So we're going to take a break until 4:00 if you
25 want to use the facilities.

1 If anybody is uncomfortable at any time, just raise
2 your hands if you need a break. It's customary to take a 15
3 minute break in the morning and in the afternoon at a logical
4 place.

5 When we get back, we'll have the government's first
6 witness on the stand.

7 That is all for today and then you will be back here
8 tomorrow morning at 10:00.

9 Don't talk about the case among yourselves. Talk
10 about anything. We have a wonderful diverse array of people
11 here. Enjoy each other's company.

12 Relax.

13 Don't talk even among yourselves about the case
14 until you hear all the evidence and then you will be
15 deliberating as a group.

16 That is the beauty of jury deliberation, not one by
17 one but after all the evidence is presented and I tell you to
18 start deliberations.

19 So in the meantime, take a break until 4:00.

20 (Jury out at 3:45 p.m.)

21 THE COURT: The jury is out.

22 Ms. Dayananda, you have that civil witness that you
23 want to have testify today, right?

24 MS. DAYANANDA: Yes, your Honor.

25 There are two. We'll see how it goes.

1 THE COURT: Have her here on the witness stand by
2 4:00 when we reconvene.

3 MS. DAYANANDA: Yes, your Honor.

4 (Recess.)

5 (Continued on next page.)

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Sheptuk/Direct/Dayananda

1 (In open court.)

2 MS. DAYANANDA: Your Honor, we have a witness on
3 the stand. We were going to try to get one more witness on,
4 but, if not, I think we'll need --

5 THE COURT: We'll do the best we can. What else can
6 I say? I have no idea how long the questions are going to be,
7 how long the cross-examination. I don't have a crystal ball.
8 But we're going to go to about 5:00.

9 (Jury enters courtroom.)

10 THE COURT: All right, folks, we have the very first
11 witness here, and at this time who is going to question this
12 gentleman?

13 MS. DAYANANDA: I am.

14 THE COURT: Ms. Dayananda. All right. So you have
15 the, I guess you might say the honor of being the very first
16 witness in this trial.

17 THE WITNESS: Thank you.

18 THE COURT: So you have to stand and Mr. Innelli is
19 going to give you an oath.

20 (Witness sworn.)

21 COURTROOM DEPUTY: Thank you. Please have a seat.

22 THE COURT: All right. Let's have your name.

23 COURTROOM DEPUTY: And if you could spell it.

24 THE WITNESS: Michael D. Sheptuk, S-h-e-p-t-u-k.

25 THE COURT: Now, I want you to just let me know

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1 what number on my witness list we have here.

2 COURTROOM DEPUTY: Number one.

3 MS. DAYANANDA: I believe he is number one, Judge.

4 THE COURT: He is number one. All right. I'm going
5 to say this to every witness. We have this amplification
6 system, which I don't love, quite frankly. So every person
7 who testifies has a different voice, right? So you don't have
8 to be that close to it. You just want to make sure you have a
9 nice moderate sound that the folks can hear you with. So you
10 can do this by saying "good afternoon, Judge Block," and let's
11 see how you sound.

12 THE WITNESS: Good afternoon, Judge Block.

13 THE COURT: I think that's okay. You don't even
14 have to bend that close to it. I think everybody can hear
15 you. And let's go, Ms. Dayananda, your witness.

16 MS. DAYANANDA: Thank you, Your Honor.

17 MICHAEL D. SHEPTUK, called by the Government, having been
18 first duly sworn, was examined and testified as follows:

19 DIRECT EXAMINATION

20 BY MS. DAYANANDA:

21 Q Good afternoon, Mr. Sheptuk.

22 A Good afternoon.

23 Q Are you currently working?

24 A Yes.

25 Q Are you retired?

SHERRY BRYANT, RMR, CRR Official Court Reporter

Sheptuk/Direct/Dayananda

1 A Yes.

2 Q From where?

3 A New York City Police Department.

4 Q What years did you work for the New York City Police
5 Department?

6 A 1980 to 2000.

7 Q Can you briefly describe to the jury what some of your
8 assignments were when you were with the NYPD?

9 A I started out after the Academy, I worked in NSU 14, then
10 I worked in the 60 Precinct, then in the Kings Warrant Squad,
11 and then the Crime Scene Unit.

12 Q Did you retire from the Crime Scene Unit?

13 A Yes.

14 Q And what year did you start in the Crime Scene Unit?

15 A 1988.

16 Q Can you just describe what your duties are as a crime
17 scene detective?

18 A At the request of precinct detectives, we'd respond to
19 various locations in the city where a crime had been
20 committed. I would then confer with uniformed and
21 plainclothes police officers to try and determine what had
22 happened there. Upon arrival, photographs taken, evidence is
23 collected and a sketch is drawn.

24 Q Just indulge me, because you're the first witness.

25 What's the difference between the precinct detectives' and the

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1 crime scene detectives' role?

2 A The precinct detectives handle crimes that occur in their
3 precinct. Crime scene, we handled crimes that were committed
4 throughout the city.

5 Q Do you have any specific training as a crime scene
6 detective?

7 A Yes.

8 Q Can you describe that to the jury?

9 A I've taken basic NYPD fingerprint courses, New York City
10 Police Department homicide and sex crime courses, crime scene
11 photography, ballistics and fingerprint course, FBI advanced
12 and basic fingerprint courses, and an FBI crime scene
13 photography course.

14 Q And what types of crime scenes do you respond to?

15 A Homicides, felonious assaults where somebody is likely to
16 die, pattern crimes.

17 Q During your time with the Crime Scene Unit, can you
18 estimate about how many crime scenes you responded to?

19 A About 2,600.

20 Q What would that be per year?

21 A 200.

22 Q Detective, I'm going to direct your attention to August
23 10th of 2001. Were you working on that day?

24 A Yes.

25 Q What shift were you working?

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1 A I was scheduled to work from 2 p.m. on the 9th to 8 a.m.
2 on the 10th.

3 Q Direct your attention to about 5:55 in the morning of
4 August 10th. Did you respond to a crime scene in Manhattan?

5 A Yes.

6 Q Where did you arrive to?

7 A Sixth Avenue and Spring Street.

8 Q Is that Lower Manhattan?

9 A Yes.

10 Q Can you describe to the jury what you learned when you
11 arrived to that crime scene?

12 A Mr. Ivory Davis was shot while in his vehicle. After he
13 was shot, he proceeded to drive west -- eastbound on Spring
14 Street, where during that ride he struck a pedestrian. The
15 car continued east on Spring Street to where it crashed on the
16 corner of Spring Street and Sixth Avenue.

17 Q And did you learn where the initial shooting had taken
18 place?

19 A Yes.

20 Q Where was that?

21 A Hudson Street and Spring Street.

22 Q You mentioned Hudson and Spring as well as Spring and
23 Sixth Avenue; is that correct?

24 A Yes.

25 Q Did you respond to both of those locations?

Sheptuk/Direct/Dayananda

1 A Yes.

2 Q At the same time? I mean, in the same time period?

3 A Yes.

4 MS. DAYANANDA: Your Honor, at this time the
5 government is going to mark for identification, previously
6 shown to counsel, Government Exhibit 809.

7 THE COURT: All right. So that's the first exhibit,
8 which we're allowing into evidence, and there's going to be
9 lots of exhibits. I've been given an exhibit list, a proposed
10 exhibit list by the government, and many of these will not be
11 objected to. This is 809?

12 MS. DAYANANDA: That is correct.

13 THE COURT: Let me find it. And you may want to
14 tell me which of these 15 pages we're talking about.

15 COURTROOM DEPUTY: It's on page 10.

16 MS. DAYANANDA: These will all be on page 10.

17 THE COURT: This is all on page 10. So I keep a
18 record of this to make sure that we have an account of all the
19 exhibits that are in evidence. 809 in evidence, the map of
20 the crime scene location?

21 MS. DAYANANDA: That is correct. If there's no
22 objection, I can just show it to the witness without --

23 THE COURT: There's no objection?

24 MR. RUHNKE: There is no objection.

25 THE COURT: In evidence at this time.

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1 (Government Exhibit 809 so marked in evidence.)

2 THE COURT: Okay, go ahead.

3 (Exhibit published to the jury.)

4 Q Mr. Sheptuk, I'm showing you now -- I think you have a TV
5 there next to you -- what the government has admitted into
6 evidence as Government Exhibit 809. I think it's pretty
7 clear.

8 MS. DAYANANDA: Mike, can we have the lights?

9 COURTROOM DEPUTY: Actually, we're having some
10 technical difficulties. They're working on it, but right now
11 I can't dim the lights. They're working on it.

12 Q Okay, no worries. Why don't we just start with, you
13 mentioned the initial crime scene at Spring and Hudson Street.
14 If you'd touch the screen, Mr. Sheptuk, you actually can mark
15 it.

16 So you mentioned two crime scenes. Let's start with
17 where the shooting actually occurred, if you could mark that.

18 A (Indicating.)

19 Q And that's the corner of Spring and Hudson; is that
20 right?

21 A Correct.

22 Q You said you learned that the vehicle traveled east on
23 Spring Street; is that right?

24 A Correct.

25 Q Can you show the path of the vehicle that you were able

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1 to determine?

2 A (Indicating.)

3 Q You mentioned a pedestrian was struck. Based upon your
4 observations that night, can you tell us -- that day, can you
5 tell us where you believe the pedestrian was struck,
6 approximately?

7 A Around here (indicating).

8 Q Okay, indicating for the record the second mark there.
9 The jurors seem oriented, so it's fine.

10 Finally, where the car crashed.

11 A (Indicating.)

12 Q And that's the corner of Spring and Sixth Avenue; is that
13 correct?

14 A Correct.

15 Q And would that be the southeast corner?

16 A Correct.

17 Q And where did you arrive first?

18 A Spring Street and Sixth Avenue.

19 Q And can you describe that scene to the jury when you
20 first responded?

21 A The area was cordoned off. There was a black Range Rover
22 that was on its side that had been in an accident, and a
23 deceased male was lying next to the truck.

24 Q Now, can you describe to the jury what do you do when you
25 first get to the crime scene, in the sense of you speak to the

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1 detectives there on the scene you described; correct?

2 A Yes.

3 Q And then what do you do next?

4 A Then we would walk through the scene to see what evidence
5 is there, items that have to be photographed and collected,
6 and then a sketch is drawn.

7 Q I think we've all seen that yellow tape. Is that put up
8 before you get there or after you get there?

9 A Before.

10 Q Who's in charge of kind of cordoning off the scene?

11 A The first officers.

12 Q Now, as part of this crime scene, did you take
13 photographs?

14 A Yes.

15 Q I'm going to show you what's been marked for
16 identification --

17 MS. DAYANANDA: Your Honor, these have already
18 been agreed upon as well. So 801A through L, Your Honor, but
19 we're not admitting 801G as in --

20 THE COURT: So which now are in evidence?

21 MS. DAYANANDA: 801A through L, but we're not
22 admitting 801G, as agreed upon by counsel.

23 THE COURT: Just bear with me. 801 --

24 MS. DAYANANDA: A.

25 THE COURT: A, I have that.

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1 MS. DAYANANDA: B.

2 THE COURT: Through L?

3 MS. DAYANANDA: Through L, but not G.

4 THE COURT: And not G. All right. So that's in
5 evidence. So it's 801A through 801F and 801H through 801L;
6 correct?

7 MS. DAYANANDA: That is correct.

8 THE COURT: In evidence at this time, without
9 objection.

10 (Government Exhibits 801A through 801F and 801H
11 through 801L so marked in evidence.)

12 Q Detective, now, prior to coming to court today, did you
13 have an opportunity to review these photographs, 801A through
14 L?

15 A Yes.

16 Q And are these a portion of the photographs that you took
17 that day of August 10?

18 A Yes.

19 Q And can you describe kind of the different photos that
20 we'll go through here?

21 A There's overall areas of the -- overall view of the
22 street on Spring Street. There's overall views of the area on
23 Sixth Avenue. There's overall views of the vehicle. There's
24 overall views of the deceased. There's overall views of the
25 corner of Hudson Street and Spring Street.

Sheptuk/Direct/Dayananda

1 Q Okay, so let's start where you started that day, which
2 would be the corner of Sixth and Spring. I'm showing you now
3 what's been entered in as 801A. And actually, if you touch
4 the right corner of your screen -- oh, actually, I can do it.

5 So the lighting appears to be an issue. Does it
6 show up better on the TV screens? Okay, perfect. Oh, okay.
7 Here we go.

8 So starting with 801A, can you tell us what this is
9 a photo of?

10 A It's an overall view of the area on Spring Street with
11 the camera facing eastbound.

12 Q Okay. From this photograph, 801A, can you tell us where
13 the car is that crashed?

14 A Across -- across Sixth Avenue by -- there's a blue awning
15 there, point to it (indicating).

16 Q And can you tell us what we see here?

17 A A sandal.

18 Q What did you learn about whose sandal that was?

19 A The pedestrian that was struck.

20 Q Did you find another sandal?

21 A Yes.

22 Q Where was that sandal?

23 A In the background here in that red area, the park area,
24 approximately 133 feet from the first sandal.

25 Q You can touch the screen and mark it, approximately where

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1 that sandal was found.

2 A (Indicating.)

3 Q And I'm sorry, you mentioned a distance. Was that 133
4 feet?

5 A Approximately, yes.

6 Q You also said that you learned where the pedestrian was
7 found. Do we see that in the photo here?

8 A It's (indicating).

9 Q Okay, it's closer to the blue awning; is that correct?

10 A Correct.

11 Q Showing you now 801B, can you tell us what this is?

12 A That's an overall view of the area on Sixth Avenue with
13 the camera facing north.

14 Q And just so we're clear there, on the right-hand side is
15 where the crime scene starts that we saw in the previous
16 photo?

17 A Correct.

18 Q 801C?

19 A It's an overall view of the area on Spring Street with
20 the camera facing west.

21 Q So this is the opposite view that we had before; is that
22 right?

23 A Correct.

24 Q 801D?

25 A It's an overall view of the vehicle.

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1 Q And this would be the corner of Sixth Avenue and Spring
2 Street; is that right?

3 A Correct.

4 Q In fact, do we see what the sign is there?

5 A It says "Spring Street."

6 Q 801E -- before I show 801E, at the time you got to the
7 crime scene, where was the body of the victim Ivory Davis?

8 A Under the white sheet.

9 Q As part of what you do at the crime scenes, you take
10 photos of the deceased?

11 A Yes.

12 Q Showing 801E, is this a photo of the deceased?

13 A Yes.

14 Q And as part of the crime scene responsibilities, you also
15 take photos of where -- 801F, can you explain why -- what this
16 is a photo of?

17 A That's an overall view of the bullet wounds to the
18 deceased, Mr. Ivory Davis.

19 Q And 801P, can you tell us what this is a photo of?

20 A It's an overall view of the area where the pedestrian
21 that was struck was.

22 Q And can you describe what's there on the ground?

23 A Blood.

24 Q And just to orient ourselves, the pole that we see here,
25 is that the pole that was shown in 801A?

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1 A Correct.

2 MS. BARRETT: I don't believe that P is in evidence
3 yet. We have no objection to P, but --

4 MS. DAYANANDA: Oh, sorry.

5 THE COURT: What's in evidence now?

6 MS. BARRETT: 801P, Your Honor.

7 THE COURT: 801?

8 MS. BARRETT: P.

9 THE COURT: D?

10 MS. BARRETT: P.

11 THE COURT: I'm sorry. I hear a P, I hear a D.

12 MS. BARRETT: P as in Peter.

13 THE COURT: P as in Peter. So we agree that's going
14 to be in evidence?

15 MS. BARRETT: Yes, Your Honor.

16 THE COURT: Okay, in evidence at this time, 801P as
17 in Paul.

18 (Government Exhibit 801P so marked in evidence.)

19 Q Detective, so once you took the photos here at Sixth and
20 Spring Street, did you then take photos at Spring and Hudson?

21 A Yes.

22 Q And did you -- how did you get to that location?

23 A We drove.

24 Q Can you describe those city blocks?

25 A Spring Street runs from west to east, approximately 30 or

Sheptuk/Direct/Dayananda

1 40 feet wide.

2 Q Starting with 801H, can you tell us what this is a photo
3 of?

4 A It's an overall view of the area around Spring Street
5 with the camera facing west.

6 Q And 801I?

7 A It's an overall view of the area on Spring Street with
8 the camera facing east.

9 Q I just want to draw your attention here to the left-hand
10 corner. Can you tell the jury what this is a photo of and
11 actually what the yellow tape indicates?

12 A The tape was to cordon off the area, and those cups,
13 underneath the cups are discharged shells.

14 Q Are you responsible for putting the cups up?

15 A No.

16 Q Who does that, the first officers, again?

17 A It could be the first officer.

18 Q 801J?

19 A That's an overall view of the ballistics evidence, the
20 discharged shells.

21 Q And the markers there, can you explain what that is?

22 A I placed the markers there to show where the shells were.

23 Q And how many shells did you recover on the scene?

24 A Four.

25 Q Do you know the caliber of those shells?

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1 A .40 caliber.

2 Q And once you recover that ballistics evidence, what do
3 you do with it?

4 A The shells were processed for latent fingerprints. They
5 were marked, packaged, and then given to Police Officer Hunt.

6 Q And then were they vouchered?

7 A Yes.

8 Q In addition to these ballistics evidence, did you also
9 find ballistics evidence in the car?

10 A Yes.

11 Q I'm going to show you 801K, starting with K. Can you
12 tell the jury what this is a photo of?

13 A That's an overall view of the rear of the vehicle.

14 Q Now, obviously, this is not of the same scene that we saw
15 before. Can you tell us what happened?

16 A The vehicle was towed to the 1st Precinct.

17 Q And for what purpose?

18 A To process the vehicle for additional evidence.

19 Q Showing you 801M as in Mary, can you tell us what we see
20 here?

21 A That's an overall view of the property damage, the bullet
22 holes in the seat of the vehicle.

23 THE COURT: So 801M is now in evidence?

24 MS. DAYANANDA: Yes.

25 MR. HERMAN: No objection.

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1 (Government Exhibit 801M so marked in evidence.)

2 MS. DAYANANDA: I'm sorry, I went up to L before.

3 I'm now going to ask to put in N and O.

4 THE COURT: N and O, no objection to that?

5 MS. BARRETT: No objection.

6 MR. HERMAN: No objection.

7 (Government Exhibits 801N and 801O so marked in
8 evidence.)

9 Q Just so we're clear, this is the driver's side and that's
10 the bullet hole; is that correct?

11 A Correct.

12 Q And Government Exhibit 801N as in Nancy, can you tell us
13 what that's a photo of?

14 A That's an overall view of the front side of the driver's
15 side, driver's seat, showing the property damage, the
16 ballistics holes.

17 Q And we also see a bullet hole here; is that correct?

18 A Correct.

19 Q That's the same as what we saw in 801M as in Mary?

20 A Correct.

21 Q 801O, can you tell us what this is?

22 A That's an overall view of a 9 millimeter cartridge that
23 was found on the right front passenger seat of the vehicle.

24 Q Can you describe what the difference is? You mentioned
25 cartridge and you also mentioned casing. Can you tell us what

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1 the difference is?

2 A A cartridge is a full bullet with the projectile, the
3 shell, the primer and the gunpowder. Discharged shells are
4 what's left after the weapon is fired. After the projectile
5 leaves the shell, what's left over was the discharged shell.

6 Q So in 8010, we see an unfired bullet. Is that a
7 layperson's way of saying that?

8 A Correct.

9 Q And is that a 9 millimeter, you said?

10 A Yes.

11 Q Versus 801J, this is fired bullets; is that correct?

12 A Yes.

13 Q And these you call casings?

14 A Discharged shells.

15 Q And those were from a .40 caliber?

16 A Yes.

17 Q And 801L?

18 A It's an overall view of a piece of copper jacketing that
19 was on the left front windshield of the vehicle.

20 Q Can you just point out where that copper jacket is?

21 A (Indicating.)

22 Q And what's a copper jacket?

23 A It's a piece of copper that goes around a lead bullet.
24 If you think of an M&M candy, the copper jacketing would be
25 the outside candy and then the lead would be the chocolate

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1 inside.

2 Q Is that from a fired bullet or --

3 A Yes.

4 Q Okay. Now, the copper jacket, the cartridge you found
5 and the .40 casings he vouchered, that was vouchered by
6 Officer Hunt, you said?

7 A Hunt, yes.

8 Q Do you remember what that voucher number was?

9 A No.

10 Q I'm going to --

11 MS. DAYANANDA: Mike, if we could just show the jury
12 at this time.

13 COURTROOM DEPUTY: You mean the witness, right?

14 MS. DAYANANDA: The witness, I'm sorry.

15 COURTROOM DEPUTY: I just wanted to make sure.

16 Q Is this what the property that you found was vouchered
17 under?

18 A Yes.

19 MR. HERMAN: Do you have the exhibit number?

20 MS. DAYANANDA: No. I'm just going to put in the
21 voucher number. I mean, I can put it in if you want.

22 THE COURT: Just talk to me, not to each other.

23 MS. DAYANANDA: Sorry, Your Honor. We'll mark this
24 as Government Exhibit 809 -- 810, 810.

25 THE COURT: 810. What is 810?

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1 MS. DAYANANDA: This will be a voucher for the
2 ballistics recovered on the scene.

3 THE COURT: You want the voucher in evidence. All
4 right, no objection.

5 (Government Exhibit 810 so marked in evidence.)

6 Q Detective, now that this is in evidence, is this the
7 evidence that you recovered as part of the Ivory Davis crime
8 scene that you gave to a patrol officer?

9 A Yes.

10 Q And can you describe what that vouchering process is? I
11 know you didn't do it, but generally.

12 A Once evidence is collected at a scene, again, I mark it,
13 I package it, and then I give it to a police officer, who
14 then -- to keep the continuity of the evidence, it's then
15 vouchered. He puts it on a voucher and -- for the continuity
16 of evidence.

17 Q Now, also part of your crime scene duties, did you do a
18 diagram of the scene?

19 A Yes.

20 Q I'm showing you what's been marked for identification as
21 800A.

22 MS. DAYANANDA: I don't believe there's an objection
23 to this.

24 THE COURT: There is or is not?

25 MS. DAYANANDA: There is not.

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1 THE COURT: All right. Hearing no objection, in
2 evidence.

3 (Government Exhibit 800A so marked in evidence.)

4 Q Can you explain why you do a diagram, Detective?

5 A A diagram is done to show the location of evidence
6 collected.

7 Q And here, when we see 800A, can you tell the jury what
8 this shows us?

9 A The 1, 2, 3 and 4 signifies the discharged shells.

10 Q And what -- did you draw this?

11 A Yes.

12 Q What would this be?

13 A That was a vehicle that was parked there when I arrived.

14 Q And just to orient ourselves, this was -- this is only
15 the scene of where the casings were recovered; is that right?

16 A Correct.

17 Q And not of where the car crashed?

18 A Correct.

19 Q Finally, do you also do what we call a body diagram?

20 A Yes.

21 Q Can you explain to the jury what that is?

22 A That's to show the location of gunshot wounds to a
23 victim.

24 Q And did you do that here in this case?

25 A Yes.

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Sheptuk/Direct/Dayananda

1 Q I'm going to show Government Exhibit 800B as in boy.

2 MS. DAYANANDA: I don't believe there's an objection
3 to this either.

4 THE COURT: 800B in evidence.

5 (Government Exhibit 800B so marked in evidence.)

6 Q Can you tell the jury what we're seeing here?

7 A The location of the two bullet wounds to Mr. Davis.

8 Q And is that based upon just your observations as well as
9 any discussion you may have had with the doctor, or just your
10 observations?

11 A No, it's discussion with the MLI that was there.

12 Q And can you just show us where -- based upon your
13 discussions of what you saw, where the bullet wounds were?

14 A The two Xs on the sheet.

15 Q And does that essentially correspond with what we saw
16 here as 801F?

17 A Yes.

18 Q And based upon your knowledge, were you able to see if
19 that was -- what types of -- how those -- what type of wounds
20 they were, in terms of entrance?

21 A They're entrance wounds.

22 Q And what do we mean by entrance wounds?

23 A Where the bullet entered the back, but did not exit the
24 body.

25 Q And did that correspond with what you saw from the car,

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1 in terms of where the bullets were that we see here in
2 Government Exhibit M as in Mary?

3 A Yes.

4 MS. DAYANANDA: I have nothing further. Thanks so
5 much.

6 THE COURT: Any questions from counsel?

7 MS. BARRETT: Just briefly, Your Honor.

8 CROSS-EXAMINATION

9 BY MS. BARRETT:

10 Q Mr. Sheptuk, are you happy to be called Mister now?

11 A Yes, ma'am.

12 Q Your personal knowledge is what you testified to today,
13 is that correct, the crime scene?

14 A My testimony is based on my paperwork and reports.

15 Q Your personal knowledge. And that's your personal
16 knowledge here today. You have no information, personal
17 knowledge of any other aspect of this investigation?

18 A No.

19 MS. BARRETT: Thank you.

20 THE COURT: All right. You may step down. Thank
21 you very much. Now, do you have another witness --

22 MR. BEECHER: I have a question.

23 THE COURT: Oh, Mr. Beecher, I'm sorry. I didn't
24 mean to preclude you, Mr. Beecher.

25 BY MR. BEECHER:

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1 Q So, Mr. Sheptuk -- would you prefer to be called
2 Detective, by the way?

3 A No, sir.

4 Q Okay. Mr. Sheptuk, I think we met outside. My name is
5 Robert Beecher. I represent Aaron Granton. And I just have
6 just a very few questions for you.

7 When you responded to the Spring Street location on
8 Sixth Avenue, the corner of Spring and Avenue of the Americas,
9 did you happen to observe or were you advised by any of the
10 first officers on the scene as to whether or not there were
11 any video cameras present at that location or in the vicinity
12 of that location?

13 A I don't recall that from that night.

14 Q Now, if you had been so advised, would I be correct in
15 assuming that you would have made a notation of that?

16 A No.

17 Q No?

18 A No.

19 Q Would that have been something that the precinct
20 detectives would have followed up on?

21 A Possibly, and the DA's office.

22 Q And the DA's office. Now, was M the 1st Precinct where
23 the -- which -- 801M at the 1st Precinct? Okay.

24 You advised us that the vehicle was towed to the 1st
25 Precinct for further processing; is that correct?

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1 A Correct.

2 Q And that further processing included the photographs that
3 are admitted in evidence; is that correct?

4 A Some of them, yes.

5 Q And the location of some residual copper jacketing which
6 was inside the vehicle?

7 A Correct.

8 Q Now, at that location, because I don't have any
9 information regarding it, was the vehicle processed for any
10 latent fingerprints on the exterior of the vehicle?

11 A Yes.

12 MR. BEECHER: I don't have a report on that. Does
13 the government have that, because we do not?

14 Q Okay. You did process it for latents at the precinct?

15 A Yes.

16 Q Okay. Then that is -- oh, I did have one other question.
17 You processed the shell casings that were found at the scene
18 for latent fingerprints?

19 A Correct.

20 Q And that was -- the results were negative?

21 A Correct.

22 THE COURT: So you found no latent prints on the
23 vehicle; right?

24 THE WITNESS: No, there were latent prints recovered
25 from the vehicle.

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1 THE COURT: This is from where then?

2 Q 1st Precinct, I would imagine. Would that be correct,
3 Mr. Sheptuk?

4 A That's where the vehicle was processed, at the 1st
5 Precinct, correct.

6 Q White powder was used on that?

7 A Correct.

8 MR. BEECHER: I don't have any further questions,
9 Your Honor.

10 THE COURT: Anything from the government?

11 MS. DAYANANDA: I just want to clarify.

12 THE COURT: Redirect.

13 REDIRECT EXAMINATION

14 BY MS. DAYANANDA:

15 Q Mr. Beecher just asked you about potential video. Did
16 you learn about where -- outside where the shooting happened,
17 if it was a nightclub?

18 A I was -- again, I have no independent recollection of
19 that night, but later on I was told it was a nightclub.

20 Q And I'm just showing you 800A. It appears from your
21 diagram you've marked a bar lounge here at 289 Spring.

22 A Yes.

23 Q Is that the corner, essentially, where the shooting
24 occurred?

25 A Yes.

1 MS. DAYANANDA: I have nothing further. Thanks.

2 THE COURT: Anything else? Okay. I think you can
3 step down now. Thank you very much.

4 (Witness steps down from the stand.)

5 THE COURT: All right. Ms. Dayananda, it's 20 to 5.
6 I think you told me before when the jury was out that you had
7 somebody else who you wanted to call today, but it's late now.

8 MS. DAYANANDA: I understand.

9 THE COURT: So it's not likely that we'd be able to
10 complete the next testimony in 20 minutes' time. You get
11 going, pick up your daughter or son, and we'll see you folks
12 10:00 sharp tomorrow morning. Don't talk about the case.

13 (Jury exits courtroom.)

14 THE COURT: All right, folks, the jury is out.
15 Anything else you want to talk about before we adjourn for the
16 day and reconvene tomorrow at 10:00? Mr. Ruhnke.

17 MR. RUHNKE: One request, Your Honor, if we could
18 break around the same time tomorrow, I've got a medical
19 appointment in the evening.

20 THE COURT: We can probably do that. It may be a
21 natural time to break, anyway. You never know.

22 MR. RUHNKE: I appreciate it.

23 THE COURT: Anybody else have any concerns? Ms.
24 Paul, you are standing here wishing to speak to the judge.

25 MS. PAUL: Yes, Judge. We're discussing, if you

1 could give us one moment, please.

2 THE COURT: You need to discuss? You have all your
3 witnesses lined up tomorrow? You might give us a sense as to
4 who we have.

5 MS. PAUL: Yes, Your Honor. Well, in terms of the
6 first witness, we have an outstanding motion pending regarding
7 her Giglio information. That is Ms. Gregory.

8 THE COURT: Well, I've looked at the paper and
9 you're concerned that there's going to be cross-examination
10 about an 18-year-old felony conviction. That's what you're
11 worried about?

12 MS. PAUL: Yes, Your Honor.

13 THE COURT: So anybody have a desire to
14 cross-examine based upon an 18-year-old felony conviction for
15 grand larceny in the fourth degree?

16 MS. BARRETT: No, Your Honor.

17 THE COURT: So that assuages your concern about it.

18 MS. PAUL: That's solved. Thank you.

19 THE COURT: 10:00 tomorrow. Tell us who we have to
20 look forward to tomorrow. Can you give us a heads-up?

21 MS. DAYANANDA: Oh, yes, Your Honor. I'm sorry.
22 Tomorrow we anticipate having Ms. Gregory here as well as the
23 bulk of the day will be Allen Bryant. That's the cooperating
24 witness nicknamed Boo. That will take us to the end of the
25 day.

1 THE COURT: So you folks know what to expect then
2 tomorrow. Mr. Beecher.

3 MR. BEECHER: Your Honor, there is one issue on
4 behalf of Mr. Granton. He is, as you know, at the
5 Metropolitan Detention Center, where he is not receiving, he
6 is not entitled or permitted to receive family visits because
7 of a disciplinary issue which happened some months ago
8 regarding his alleged refusal to submit to a urine
9 examination.

10 Now, considering the stressors that are obvious
11 associated with an ongoing criminal trial, it would seem to me
12 that he ought to receive family visits on the weekends.
13 Obviously, not during the week, because we are here. But I
14 was advised that I would have to take it up with Your Honor as
15 to whether or not you would be willing to request that the MDC
16 permit him to have family visits during this especially trying
17 time.

18 THE COURT: So what we usually do here is we contact
19 our contact person at the prison and we speak to them to see
20 if it's a problem, and we'll see what we can do. Mr. Innelli
21 will contact the attorney in charge here and speak to him
22 about it.

23 MR. BEECHER: Very much appreciate it, Your Honor.

24 THE COURT: Thank you. See you tomorrow at 10:00.

25 (Pause.)

1 THE COURT: Come right up here, ma'am. All right.

2 So what's your name?

3 THE WITNESS: My name is Theresa Gregory.

4 THE COURT: Gregory. All right. So now, I know
5 you've been here probably most of the day or a good part of
6 the day, waiting to come and testify; right?

7 THE WITNESS: Yes.

8 THE COURT: And the government had every intention
9 of accommodating you, but it didn't work out that way. So
10 it's going to be necessary for you to come back tomorrow. I'm
11 sorry that you have to be imposed upon, but I don't have a
12 crystal ball, I can't predict exactly how things are going to
13 turn out.

14 The government has tried its best efforts to get you
15 to testify today, but we just didn't have time to do that. So
16 I'm sorry, but you have to be here tomorrow at 10:00.

17 MS. PAUL: Yes. Well, it will be before.

18 THE COURT: A little before. You'll meet the
19 government. They made arrangements to talk to you, I'm sure,
20 9:30, whenever it is that they want to speak to you. Okay?

21 THE WITNESS: Okay.

22 THE COURT: And you'll be the first witness
23 tomorrow?

24 MS. PAUL: Yes.

25 THE COURT: So you'll probably be out of here

1 certainly in the morning, I guess.

2 MS. DAYANANDA: Definitely.

3 THE COURT: Thanks a lot.

4 MS. DAYANANDA: Thanks, Judge.

5 (Whereupon, the proceedings were adjourned at 4:44
6 p.m until April 2, 2015 at 10:00 a.m.)

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